



**Jemez Mountain School District**

PO Box 230  
Gallina, NM 87017

Phone: 505.638.5491  
Fax: 505.638.5571

**Adán Delgado — Superintendent**  
**Kathy Borrego—Business Manager**

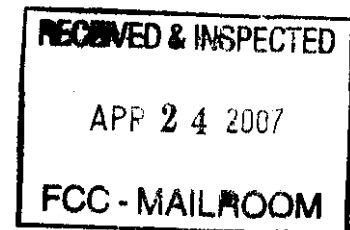
**Coronado High School—Coronado Middle School**  
**Coyote Elementary—Gallina Elementary**  
**Lybrook Elementary—Lindrith A. H. Charter School**

DOCKET FILE COPY ORIGINAL

DOCKET FILE COPY DUPLICATE

March 27, 2007

Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554



**RE: CC Docket No. 02-6**

To Whom It May Concern:

We are filing an appeal to the FCC in response to a denial of an appeal to the Universal Service Administrative Company, Schools & Libraries Division.

Our original appeal letter is attached. As we stated in the original letter; we have never received a Funding Commitment Decision Letter from the SLD; therefore, we were unaware of the date that the Form **486** needed to be filed. We found out more than **120** days after the date of the FCDL from our **vendor** that we had not been funded. The copy in the enclosed document shows the Form **471** RAL Line Item Report that our vendor gave us.

This issue revolves around the late filing of the Form **486**. Obviously it looks as if we were late, however, this is the basis of the appeal; by not receiving a FCDL from the SLD, we had no way to know the time frame of filing forms, and should not be penalized with such severity regarding **the** funding that we so heavily rely on. We sincerely believe that these **are** considered "circumstances beyond our control".

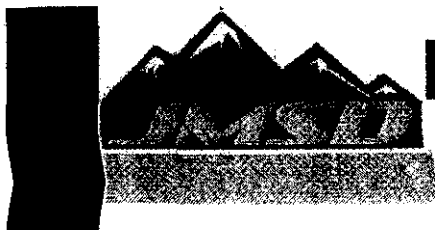
We request that we receive the original committed amount of **\$96805.49**.

Thank you in advance for your consideration

Sincerely,

Adan Delgado  
Superintendent

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List ABCDE



**Adán Delgado — Superintendent**  
**Kathy Borrego—Business Manager**

**Coronado High School—Coronado Middle School**  
**Coyote Elementary—Gallina Elementary**  
**Lybrook Elementary—Lindrieth A. H. Charter School**

## LETTER OF APPEAL

Letter of Appeal  
Schools and Libraries Division  
Correspondence Unit  
100 Jefferson S. Road  
PO Box 902  
Whippany, NJ 07981

**Subject: Funding Commitment Decision**

**To Whom It May Concern:**

I write this letter to appeal the decision to change our **funding commitment** from \$96,805.49 to **\$9,680.46** due to a late filing of **the** form 486 by our school. The **Form 486 Notification Letter - Funding Commitment Report** states: "**Service Start Date Change Explanation: 120-Day 486 Deadline**"

|                                      |   |
|--------------------------------------|---|
| <b>Document:</b>                     | <b>Form 486 Notification Letter - Funding Commitment Report</b> |
| <b>Funding Year 2004:</b>            | <b>07/01/2004 - 06/30/2005</b>                                  |
| <b>Billed Entity Name:</b>           | <b>Jemez Mountain School District 53</b>                        |
| <b>Billed Entity Number:</b>         | <b>143237</b>   |
| <b>Form 471 Application Number:</b>  | <b>426990</b>   |
| <b>Funding Request Number (FRN):</b> | <b>1183271</b>  |

Jemez Mountain Schools was late in filing the 486 form due to circumstances beyond our control. As per prior cases of late or missing 486 forms due to different reasons I am appealing this decision and asking that the original **committed amount** of **\$96,805.49** be reinstated.

To date, the Jemez Mountain School District has received absolutely no communication regarding this funding request from the Schools and Libraries Division (SLD). We were informed by our vendor more than 120 days after the official date of the Funding Commitment Decision **Letter** that the request had been funded. We immediately submitted a 486 form for the Funding Request. I inquired via phone with the SLD whether or not we could do anything about the late submission (one day after the 120-day deadline) and was told that nothing could be done until a decision was made regarding the 486. They stated that until a denial or reduction was determined, there was no basis for an appeal. Once again, we never heard back from the SLD regarding the status of the request. After inquiring with the vendor regarding the status of the Funding Request, we were sent the attached **Form 486 Notification Letter**. It was only after inquiring thru the vendor that we discovered that the funding request had been reduced. There is no way for me to determine why we have not received communication on this Funding Request from the SLD however, the fact that we did not receive the communications necessary for us to act in a timely manner seems to qualify as circumstances beyond our control. Additionally, since these are essential internet services, we have already received these services and are responsible for payment whether or not we receive funding from the SLD. We are a small district with limited resources and the decision to reduce our funding would be devastating to our budget.

I am attaching a copy of the FCC Decision DA 06-1871 which specifically addresses this situation. We read in page 4 section 5, "In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule."

Furthermore in page 4 section 7 we read, "Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline. ."

We request to please review the attached document which serves as a precedence for our appeal.

Please do not hesitate to contact me should you have my questions.

Sincerely,



ADAN DELGADO  
Superintendent  
Jemez Mountain school District  
PO Box 230  
Gallina, NM. 87017  
(505) 638-5491  
adan@jmsk12.com

Before the  
Federal Communications Commission  
Washington, DC 20554

|   |   |                                     |
|---|---|-------------------------------------|
| In the Matter of                        | ) |                                     |
|   | ) |                                     |
| Requests for Review and Waiver          | ) |                                     |
| of the Decision of the                  | ) |                                     |
| Universal Service Administrator by      | ) |                                     |
|   | ) |                                     |
| Alaska Gateway School District          | ) | File Nos. SLD-412028, <i>et al.</i> |
| <b>Tok, AK, et al</b>                   | ) |                                     |
|   | ) |                                     |
| Schools and Libraries Universal Service | ) | CC Docket No. 02-6                  |
| Support Mechanism                       | ) |                                     |

ORDER

Adopted: September 14, 2006

Released September 14, 2006

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, we grant 128 appeals of decisions by the Universal Service Administrative Company (USAC) reducing or denying funding from the schools and libraries universal service support mechanism (also known as the E-rate program) on the grounds that they failed to timely submit an FCC Form 486.<sup>1</sup> As explained below, in each case we find that good cause exists to waive USAC's deadline for the FCC Form 486 filed with USAC and we remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order. In addition, we direct USAC to develop targeted outreach procedures designed to better inform applicants of approaching FCC Form 486 filing deadlines and to provide applicants with a 15-day opportunity to file or amend the form.

2. As we recently noted, applicants seeking funding from the E-rate program contend that the application process is complicated and time-consuming.<sup>2</sup> As a result, a significant number of

<sup>1</sup>In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or in waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these petitions is attached in the Appendix and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>2</sup>*Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rod 11308 (2005) (*Comprehensive Review NPRM*).

applications for E-rate support are denied because of applicant ministerial or clerical errors. We find that the actions we take here to provide relief will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the "Act"), by helping to ensure that eligible schools and libraries obtain access to discounted telecommunications and information services." In particular, we believe that by directing USAC to enhance certain application outreach procedures and granting this limited waiver of the deadline, we will provide for a more effective application processing system that ensures eligible schools and libraries will be able to realize the intended benefits of the program as we consider additional steps to reform and improve the E-rate program.<sup>4</sup> Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or program requirements that applicants must comply with to receive funding. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation. We also emphasize that our actions taken in this Order should have minimal impact on the Universal Service Fund (USF or Fund) because the monies needed to fund these appeals have already been collected and held in reserve.<sup>5</sup>

## II. BACKGROUND

3. Under the Grate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections? After an applicant for discounted services under the E-rate program has entered into agreements for eligible services with one or more service providers, it must file an FCC Form 471 with USAC.<sup>6</sup> The FCC Form 471 notifies USAC of the services that have been ordered and supplies an estimate of funds requested for eligible services.<sup>7</sup> USAC then issues a funding commitment decision letter indicating the funding, if any, for which the applicant is approved to receive. After the funding year begins and the applicant begins receiving services at the discounted rate, the applicant submits an FCC Form 486 to USAC. The FCC Form 486 indicates that the service has begun, specifies the service start date and demonstrates that the applicant has received approval of its technology plans? The timely

<sup>4</sup> 47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

<sup>5</sup> *Comprehensive Review NPRM*, 20 FCC Red at 11324-25, paras. 37-40 (seeking comment on the application process and competitive bidding requirements for the schools and libraries program).

<sup>6</sup> We estimate that the appeals granted in this Order involve applications for approximately \$1.3 million in funding for Funding Years 2000-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2006, dated May 2, 2006.

<sup>7</sup> See 47 C.F.R. §§ 54.501-54.503.

<sup>8</sup> See Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1997) (Funding Year 1999 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (Funding Year 2002 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (Funding Year 2004 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471) (collectively, FCC Form 471).

<sup>9</sup> 47 C.F.R. § 54.504(c).

<sup>10</sup> Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (April 2000) (2000 FCC Form 486 Instructions); instructions for Completing the

submission of FCC Form 486 ensures that disbursements for discounts on eligible services are done in a prompt and efficient manner. Because the FCC Form 486 indicates the actual service start date, USAC will only issue disbursements to the service provider for discounts on eligible services after receipt of the form.<sup>10</sup>

4. The deadline for receipt of the FCC Form 486, which is established by USAC, has varied over the years. In Funding Year 2000, applicants with recurring services were required to submit the FCC Form 486 postmarked by December 14, 2001.<sup>11</sup> In Funding Year 2001, the FCC Form 486 was due October 28, 2001, unless the service start date began or a funding commitment decision letter was issued after October 28, 2001.<sup>12</sup> In that case, the FCC Form 486 was required to be postmarked no later than 120 days after the service start date or the date of the funding commitment decision letter, whichever was later, for applicants to receive discounts retroactively to the service start date.<sup>13</sup> If an applicant failed to meet this requirement, USAC adjusted the start date for discounted services to either the date that the FCC Form 486 was postmarked or, in cases where the funding commitment decision letter came after the October 28, 2001 deadline, to 120 days before the date that the FCC Form 486 was postmarked.<sup>14</sup> In Funding Year 2002 and subsequent funding years, the FCC Form 486 had to be postmarked no later than 120 days after the date service began or no later than 120 days after the date of the funding commitment decision letter, whichever was later, to receive discounts retroactively to the service start date.<sup>15</sup> For a late FCC Form 486, the start date for discounted services is reset to 120 days before the postmark date.<sup>16</sup> No

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Schools and Libraries Universal Service Receipt of Service Confirmation Form, OMB 3060-0853 (July 2001) (2001 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (September 2002) (2002 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (August 2003) at 2 (2003 FCC Form 486 Instructions) (collectively, FCC Form 486 Instructions).

<sup>10</sup>See, e.g., 2003 Form 486 Instructions at 2. See also *Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12413-12444, para. 4 (2002) (*CIPA II Order*); 47 C.F.R. § 54.520.

<sup>11</sup>See November 2001 Announcements, Funding Year 3 Disbursement Closeout Instructions, available at <http://www.sl.universalservice.org/whatsnew/2001/112001.asp>.

<sup>12</sup>*Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, 8188-8191, paras. 10, 18 (2001) (*CIPA Order*); 47 C.F.R. § 54.520(g)(1) (2001) (2001 Form 486 Instructions). Under the Children's Internet Protection Act (CIPA) and the Child Internet Protection Act (NCIPA), Congress imposed new conditions on schools with Internet access that request discounted services under the schools and libraries universal service support mechanism. 47 U.S.C. § 254(h)(5), 254(i). Schools seeking costs for Internet access or internal connections services must certify to these conditions on the FCC Form 486. For Funding Year 2001, Congress established a deadline of October 28, 2001, unless the service began after that date or the funding commitment decision letter was sent after that date. 47 U.S.C. §§ 254(h)(5)(E), 254(h)(6)(E); *CIPA Order*, 16 FCC Rcd 8188-89, 8191, paras. 10-18. Because the October 28, 2001 deadline for the filing is a statutory requirement, it cannot be waived.

<sup>13</sup>2001 Form 486 Instructions at 8-10.

<sup>14</sup>2001 Form 486 Instructions at 5. See, e.g., *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002) (providing funding only for services provided on or after the FCC Form 486 filing date of October 30, 2001, instead of the funding year start date of July 1, 2001).

<sup>15</sup>*CIPA II Order*, 17 FCC Rcd at 15, para. 5; 2003 Form 486 Instructions at 6.

<sup>16</sup>Id.

funding is provided for services rendered prior to the new start date and funding commitments are reduced for the relevant funding request."

5. One hundred and twenty-eight Petitioners have requested a waiver of the deadlines or a review of USAC's decision to deny or reduce funding because of the Petitioners' late filings. The Commission may waive any provision of its rules on its own motion and for good cause shown." A rule may be waived where the particular facts make strict compliance inconsistent with the public interest." In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>20</sup> In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>21</sup>

# 111. DISCUSSION

6. In this item, we grant 128 appeals of decisions reducing or denying requests for funding from the E-rate program and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.<sup>22</sup> Petitioners' requests for funding were denied or reduced because USAC found that the FCC Form 486 was filed late or the form may not have been filed. These Petitioners, however, either claim that the filings were on time," that the late filings were the result of immaterial clerical, ministerial or procedural errors" or that the late filings were due to circumstances beyond their control.<sup>26</sup>

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 486 for Petitioners." Under Bureau precedent,

<sup>17</sup>Id.

<sup>18</sup>47 C.F.R. §1.3.

<sup>19</sup>*Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>20</sup>*WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

<sup>21</sup>*Northeast Cellular*, 897 F.2d at 1166.

<sup>22</sup>Eldora Public Library (Eldora) framed its request for review as an appeal of USAC's denial of its request for an extension of the invoice deadline (FCC Form 472). Our review of the record indicates that Eldora did not file its FCC Form 486. Eldora claims that it inadvertently failed to comply with program rules because of Eldora's small staff and the complexity of the E-rate program. On our own motion, we grant a waiver of Eldora's FCC Form 486 deadline.

<sup>23</sup>See Appendix

<sup>24</sup>See, e.g., Request for Review by Fair Haven School District; Request for Review by Oldham County Public Library; Request for Review by Schuylkill Intermediate Unit No. 29; Request for Review by Bordentown Regional School District; Request for Review by Diocese of Gallup Catholic schools.

<sup>25</sup>See, e.g., Request for Review by Quartzsite Elementary School District No. 4; Request for Review by Fort Plain Central School District; Request for Review by Good Shepard Center; Request for Review by Pueblo 60 School District; Request for Review by Lifeline Center for Child Development.

<sup>26</sup>See, e.g., Request for Review by Yukon Flats School District; Request for Review by School District U 46; Request for Review by North Wasco County School District No. 21; Request for Waiver by Bay County School District; Request for Review by Western Christian High School.

<sup>27</sup>Because we waive the FCC Form 486 deadline, applicants should receive funding from their actual service start date. We also direct USAC to waive any of its subsequent deadlines if related to the late-filed FCC Form 486, such as the FCC Form 472 deadline, if necessary for the processing of Petitioners' applications.

**deadlines** have **been strictly enforced** for the E-rate program, including those pertaining to the FCC Form 486." As we recently noted in *Bishop Perry Middle School*, a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest.<sup>29</sup> Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the FCC Form 486 deadline.<sup>30</sup> We note that the primary jobs of most of the people filling out them forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms.<sup>31</sup> Furthermore, some of the errors were caused by third parties or unforeseen events and therefore were not the fault of the applicants. Given that the applicants missed a USAC procedural deadline and did not violate a Commission rule, we find that the complete rejection of each of these applications is not warranted. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.<sup>32</sup> We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

8. We emphasize the limited nature of this decision. Because the FCC Form 486 contains the Children's Internet Protection Act (CIPA) certification, all applicants must file the form with USAC.<sup>33</sup> While we have waived the deadline for filing, we do not waive the requirement of the filing itself. Furthermore, we recognize that filing deadlines are necessary for the efficient administration of the schools and libraries E-rate program. Although we grant the subject appeals before us, our action here does not eliminate USAC's deadline for filing the FCC Form 486. We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. However, as of the effective date of this Order, we require USAC to develop additional outreach and educational efforts to inform applicants of the application requirements in an attempt to reduce the types of filing errors. Specifically, USAC shall develop a targeted outreach program designed to identify schools and libraries that have not filed their FCC Form 486 120 days from the date of their funding commitment decision letter or service start date, whichever is later.<sup>34</sup> The purpose of this outreach effort

<sup>29</sup> See, e.g., its *Waiver by Lucia Mar Unified School District et al. Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-249712, et al., CC Docket No. 02-5 Order, 15 FCC Rod. 20364, para. 3 (Wireline Competition Bur. Rel. May 28, 2004); *Request for Review by Episcopal Parish School Board, Federal-State Joint Board of Universal Service, Charges to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21 Order, 17 FCC Rod 24591, 24594, para. 7 (Wireline Comp. Bur. 2002).

<sup>30</sup> *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al. Charges to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-437170 et al., CC Docket No. 02-6, Order, 21 FCC Rod 5316, para. 9 (rel. 11/1/02).

<sup>31</sup> Some Petitioners claim that they postmarked the FCC Form 486 on time. Given that we are waiving USAC's deadline for these applicants who mistakenly or knowingly filed late, we give these Petitioners the benefit of the doubt, to the extent necessary, waive the FCC Form 486 filing deadline for them as well.

<sup>32</sup> For example, Western Christian High School's principal, a USAC official suffered a debilitating stroke and was unable to meet the Form 486 deadline. *Request for Review by Western Christian High School at 1*.

<sup>33</sup> See 47 U.S.C. § 254(h).

<sup>34</sup> Those applicants that filed their FCC Form 486 with their appeal to the Commission must also file the form with USAC, if they have not already done so.

<sup>35</sup> The service start date can be determined from Block 5 of the applicant's FCC Form 471.



will be to provide the applicant with an additional opportunity to file or amend its FCC Form 486. When an applicant has missed the deadline to file its PCC Form 486, applicants will have 15 calendar days from the date of receipt of notice in writing by USAC to file or amend its FCC Form 486.<sup>36</sup> Again, this direction will not limit or preclude any application review procedures of USAC; instead, this 15-day period will provide E-rate applicants with a limited additional opportunity to file or amend its FCC Form 486. The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for Gate applicants and should be sufficient time to correct truly unintentional ministerial and clerical errors.<sup>36</sup> The opportunity for applicants to file or amend their filings to cure minor errors will also improve the efficiency and effectiveness of the Fund. Because applicants who are eligible for funding will now receive funding where previously it was denied for minor errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to file or amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file timely and correct forms initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to file the FCC Form 486 will improve the administration of fund. In addition, we note that the Commission has initiated a proceeding to address whether particular deadlines should be modified."

9. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or the Commission's rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

#### IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47

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"Such 15-day notice shall be 15 calendar days' notice, and shall commence on the date of receipt of such notice by applicant, or five (5) calendar days after such notice is postmarked as sent by USAC, whichever is sooner. Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to file or amend their FCC Form 486.

<sup>36</sup>We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

<sup>37</sup>Comprehensive Review NPRM, 20 FCC Red at 11321, para. 29.

C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED.

11. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE REMANDED to USAC for Further consideration in accordance with the terms of this Order.

12. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this Order.

13. IT IS FURTHER ORDERED that this Order and the rules adopted herein SHALL BE EFFECTIVE upon release

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin  
Chief  
Wireline Competition Bureau

**Appendix:**  
**FCC Form 486 Deadline Petitions**

| Applicant   | Application Number | Funding Year | Type of Appeal     |
|---|--------------------|--------------|--------------------|
| Alaska Gateway School District<br>Tok, AK                   | 412028             | 2004         | Request for Review |
| Andrews County Library<br>Andrews, TX                       | 440481             | 2005         | Request for Review |
| Antwerp Local School District<br>Antwerp, OH                | 464507             | 2005         | Request for Waiver |
| Archbishop Neale School<br>La Plata, MD                     | 302737             | 2002         | Request for Waiver |
| Arlington Heights Memorial Library<br>Arlington Heights, IL | 415027             | 2004         | Request for Waiver |
| Bay County School District<br>Panama City, FL               | 398681             | 2004         | Request for Waiver |
| Beaufort County School District<br>Beaufort, SC             | 294836             | 2002         | Request for Review |
| Berrien County School District<br>Nashville, GA             | 317226             | 2002         | Request for Waiver |
| Bledsoe County Public Library<br>Pikeville, TN              | 301204             | 2002         | Request for Review |
| Bohaver Yeshiva Bnei Zion<br>Brooklyn, NY                   | 291074             | 2002         | Request for Waiver |
| Bordertown Regional School District<br>Bordertown, NJ       | 387135             | 2004         | Request for Waiver |
| Brooks County School District<br>Quitman, GA                | 321413             | 2002         | Request for Waiver |
| Broome-Tioga BOCES<br>Syracuse, NY                          | 265671             | 2001         | Request for Waiver |
| Brown Public Library<br>Northfield, VT                      | 328164             | 2002         | Request for Waiver |

|  |                  |      |                    |
|--|------------------|------|--------------------|
| Brunswick Central Schools<br>Troy, NY                                  | 404068           | 2004 | Request for Review |
| Buffalo Independent School District<br>Buffalo, TX                     | 371183           | 2003 | Request for Review |
| Burgundy Farm Country Day School<br>Alexandria, VA                     | 191800           | 2000 | Request for Review |
| Cabarrus County School Systems<br>Concord, NC                          | 299281<br>302819 | 2002 | Request for Waiver |
| Carroll County School District<br>Westminster, MD                      | 302819           | 2002 | Request for Review |
| Central Kansas Library System<br>Great Bend, KS                        | 328836           | 2002 | Request for Waiver |
| Chattanooga-Hamilton County Bicentennial<br>Library<br>Chattanooga, TN | 379922           | 2003 | Request for Waiver |
| Cherokee County School District<br>Canton, GA                          | 322398           | 2002 | Request for Review |
| Children's Home of Wyoming Conference<br>Binghamton, NY                | 398068           | 2004 | Request for Review |
| Chino Valley High School No. 51<br>Chino Valley, AZ                    | 330837           | 2002 | Request for Review |
| Chittenden Central SU 13<br>Montpelier, VT                             | 415681           | 2004 | Request for Review |
| Church of St. Aidan Parish School<br>Williston Park, NY                | 297395           | 2002 | Request for Review |
| Cinnaminson Township Public Schools<br>Cinnaminson, NJ                 | 356114           | 2003 | Request for Review |
| Cleveland Elementary School<br>Cleveland, AL                           | 362832           | 2003 | Request for Waiver |
| Clinton County Board of Education<br>Albany, KY                        | 291898           | 2002 | Request for Waiver |
| Colton Joint Unified School District<br>Colton, CA                     | 366876           | 2003 | Request for Waiver |

|  |                                      |      |                                  |
|--|--------------------------------------|------|----------------------------------|
| Columbus Public Schools<br>Columbus, OH                            | 365588                               | 2003 | Request for Review<br>and Waiver |
| Community Consolidated School District 59<br>Arlington Heights, IL | 328076<br>328077                     | 2002 | Request for Review               |
| Cundy's Harbor Library<br>Harpwell, ME                             | 292633                               | 2002 | Request for Waiver               |
| Diocese of Gallup Catholic Schools<br>Cortez, CO                   | 352887                               | 2003 | Request for Review               |
| Diocese of Gallup Catholic Schools<br>Cortez, CO                   | 355457                               | 2003 | Request for Review               |
| Douglas County School District 04<br>Roseburg, OR                  | 431083,<br>430560                    | 2004 | Request for Review               |
| Dry Creek Joint Elementary School District<br>Roseville, CA        | 409881                               | 2004 | Request for Review               |
| Dubuque Community School District<br>Dubuque, IA                   | 327890                               | 2002 | Request for Review               |
| Eldora Public Library<br>Eldora, IA                                | 346316                               | 2003 | Request for Review               |
| Emerson Board of Education<br>Syracuse, NY                         | 280479                               | 2001 | Request for Review               |
| Estill Elementary School<br>Estill, NC                             | 234858<br>234895<br>234919<br>234944 | 2001 | Request for Review               |
| Fair Haven School District<br>Fair Haven, NJ                       | 367738                               | 2003 | Request for Review               |
| Flint City School District<br>Flint, MI                            | 359243                               | 2003 | Request for Review               |
| Fort Plain Central School District<br>Fort Plain, NY               | 412951                               | 2004 | Request for Review               |
| Fort Vancouver Regional Library District<br>Vancouver, WA          | 291242                               | 2002 | Request for Waiver               |
| Galloway TWP School District<br>Galloway, NJ                       | 305849                               | 2002 | Request for Review               |

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|--|-------------------|------|--------------------|
| Glades <del>County</del> School District<br>Moore Haven, <del>FL</del> | 453848,<br>454205 | 2005 | Request for Waiver |
| Good Shepherd School<br>Baltimore, MD                                  | 266044            | 2001 | Request for Review |
| Good Shepherd School<br>Frankfort, KY                                  | 172300            | 2000 | Request for Waiver |
| Grand Coulee Dam School District<br>Coulee Dam, WA                     | 298633            | 2002 | Request for Waiver |
| Hazlet Township School District<br>Hazlet, NJ                          | 361921            | 2003 | Request for Review |
| Hennepin County Library<br>St. Paul, MN                                | 359143            | 2003 | Request for Review |
| Hood River <del>County</del> School District<br>Hood River, OR         | 364794            | 2003 | Request for Review |
| Hudson County Schools of Technology<br>North Bergen, NJ                | 297875            | 2002 | Request for Waiver |
| Hull Public Library<br>Hull, IA  | 298528            | 2002 | Request for Review |
| Illinois School for the Deaf<br>Jacksonville, IL                       | 347661            | 2003 | Request for Review |
| JEDIDistance Education Consortium<br>Fort Atkinson, WI                 | 321192            | 2002 | Request for Waiver |
| Jefferson County School Board<br>Monticello, PL                        | 459304            | 2005 | Request for Waiver |
| Kames City Independent School <del>District</del><br>Kames City, TX    | 357945            | 2003 | Request for Waiver |
| Knox County Schools<br>Knoxville, TN                                   | 215885            | 2001 | Request for Review |
| La Gloria Independent<br>Falfurrias, TX                                | 178419            | 2000 | Request for Review |
| Lamar Consolidated Independent School<br>District<br>Rosenberg, TX     | 459460            | 2005 | Request for Review |

|   |                                      |      |                                  |
|---|--------------------------------------|------|----------------------------------|
| Licking Valley <del>Local</del> School District<br>Newark, OH     | 392774                               | 2004 | Request for Review               |
| Lifeline Center for Child Development, Inc.<br>Queens Village, NY | 409570                               | 2004 | Request for Review               |
| Lima City School District<br>Lima, OH                             | 470234                               | 2005 | Request for Review<br>and Waiver |
| Lindsay Unified School District<br>Lindsay, CA                    | 410849<br>411165                     | 2004 | Request for Review<br>and Waiver |
| Little Ferry School District<br>Little Ferry, NJ                  | 295815                               | 2002 | Request for Waiver               |
| Lowell Public Schools<br>Lowell, MA                               | 359824                               | 2003 | Request <del>for</del> Waiver    |
| Madison Metro School District<br>Madison, WI                      | 353089<br>353119<br>353212           | 2003 | Request <del>for</del> Review    |
| Madison-Oneida BOCES<br>Verona, NY                                | 462476                               | 2005 | Request for Waiver               |
| Mahopac Public Library<br>Mahopac, NY                             | 402345                               | 200  | Request <del>for</del> Review    |
| Maine School Administration District No. 56<br>Searsport, ME      | 243128<br>243720<br>249415<br>249470 | 2001 | Request for Waiver               |
| Martin Public School District<br>Martin, MI                       | 426227                               | 2004 | Request for Waiver               |
| Martins Ferry City School District<br>Martins Ferry, OH           | 302365                               | 2002 | Request for Review<br>and Waiver |
| Modoc County Office of Education<br>St. Alturas, CA               | 315896                               | 2002 | Request for Waiver               |
| Moline School District<br>Moline, IL                              | 356437                               | 2003 | Request for Review               |
| Monett School District R-1<br>Monett, MO                          | 300380                               | 2002 | Request for Review               |
| Montrose County School District<br>Montrose, CO                   | 627322                               | 2004 | Request for Review               |

|   |                  |      |                                  |
|---|------------------|------|----------------------------------|
| Morgan County School District<br>Wartburg, TN                   | 327398           | 2002 | Request for Review<br>and Waiver |
| Municipal Telephone Exchange<br>Baltimore, MD                   | 267659           | 2001 | Request for Waiver               |
| Nampa School District 131<br>Nampa, ID                          | 318599           | 2002 | Request for Waiver               |
| National School District<br>National City, CA                   | 230814           | 2001 | Request for Review               |
| Nativity Academy at Saint Boniface<br>Louisville, KY            | 419716           | 2004 | Request for Waiver               |
| North Wasco County School District 21<br>The Dalles, OR         | 409053           | 2004 | Request for Waiver               |
| Northwest Arctic Borough School District<br>Kotzebue, AK        | 406645           | 2004 | Request for Review<br>and Waiver |
| Oakland Unified School District<br>Oakland, CA                  | 414456<br>417784 | 2004 | Request for Waiver               |
| Oldham County Public Library<br>Buckner, KY                     | 400462           | 2004 | Request for Review               |
| Ontario School District 8 C<br>Ontario, OR                      | 295232           | 2002 | Request for Waiver               |
| Orange-Ulster BOCES<br>Syracuse, NY                             | 262616           | 2001 | Request for Review               |
| Our Lady of Refuge<br>Brooklyn, NY                              | 203596           | 2000 | Request for Review               |
| Phenix City School District<br>Phenix City, AL                  | 322329<br>323545 | 2002 | Request for Review               |
| Pioneer Regional School Corporation<br>Royal Center, IN         | 346650           | 2003 | Request for Waiver               |
| Pitt County Schools<br>Greenville, NC                           | 254432           | 2001 | Request for Review               |
| Plymouth-Canton Community Schools<br>Plymouth, MI               | 375805           | 2003 | Request for Waiver               |
| Prairie-Hills Elementary School District 144<br>Hazel Crest, IL | 252724           | 2001 | Request for Review               |



|  |                            |      |                                  |
|--|----------------------------|------|----------------------------------|
| Providence School District<br>Providence, RI                             | 289156                     | 2002 | Request for Review<br>and Waiver |
| Public Schools of Springfield, Massachusetts<br>Springfield, MA          | 262612                     | 2001 | Request for Review               |
| Pueblo City School District 60<br>Pueblo, CO                             | 398109                     | 2004 | Request for Review               |
| Quartzsite Elementary School District # 4<br>Ehrenberg, AZ               | 407280                     | 2004 | Request for Review               |
| Redlands United School District<br>Redlands, CA                          | 286577                     | 2002 | Request for Review               |
| Saint Bede School<br>Ingleside, IL                                       | 302736                     | 2002 | Request for Waiver               |
| San Bernardino City Unified School District<br>San Bernardino, CA        | 229943<br>229951           | 2001 | Request for Waiver               |
| School District of Escambia County<br>Pensacola, FL                      | 459695<br>460757<br>464483 | 2005 | Request for Waiver               |
| School District U-46<br>Elgin, IL  | 387466                     | 2004 | Request for Review               |
| Schuylkill Intermediate Unit 29<br>Mar Lin, PA                           | 412852                     | 2004 | Request for Waiver               |
| Seaford District Library<br>Seaford, DE                                  | 186219<br>182411           | 2000 | Request for Waiver               |
| Sherburne-Earlville Central School District<br>Sherburne, NY             | 351972                     | 2003 | Request for Waiver               |
| Smyer Independent School District<br>Smyer, TX                           | 449773                     | 2005 | Request for Waiver               |
| Southeastern Regional Vocational-Technical<br>School<br>South Easton, MA | 470921                     | 2005 | Request for Waiver               |
| Southwest Region School District<br>Dillingham, AK                       | 311369                     | 2002 | Request for Review<br>and Waiver |
| Spring Hill Unified School District 230<br>Spring Hill, KS               | 289683                     | 2002 | Request for Review               |

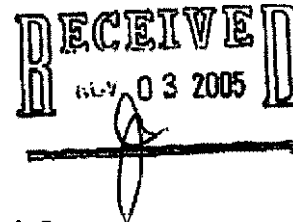
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|---|--|-------------|----------------------------------|
| <b>St. Bernadette School</b><br>Seattle, <b>WA</b>                            | <b>358930</b>  | <b>2003</b> | Request for Review               |
| <b>St. Luke's Lutheran School</b><br>St. Louis, <b>MO</b>                     | <b>364411</b><br><b>364448</b>                                   | <b>2003</b> | Request for Review               |
| St. Malachy School<br>Rantoul, <b>IL</b>                                      | <b>339842</b>  | <b>2003</b> | Request for Review               |
| Sweetwater County School <del>District No. 2</del><br>Green River, <b>WY</b>  | <b>392435</b><br><b>392334</b><br><b>392324</b><br><b>392416</b> | <b>2004</b> | Request for Waiver               |
| Talullah Falls Schools<br>Talullah Falls, <b>GA</b>                           | <b>410133</b>  | <b>2004</b> | Request for Review               |
| Tanana <b>City</b> School District<br>Tanana, <b>AK</b>                       | 381012   | <b>2003</b> | Request for Waiver               |
| <del>Texas</del> Education Telecommunications<br>Network<br>Austin, <b>TX</b> | <b>330978</b>  | <b>2002</b> | Request for Review<br>and Waiver |
| The School District of Marlboro County<br>Bennettsville, <b>SC</b>            | <b>376637</b>  | <b>2003</b> | Request for Review               |
| Union Beach <b>Public</b> Schools<br>Union Beach, <b>NJ</b>                   | <b>203423</b>  | <b>2000</b> | Request <del>for</del> Review    |
| Vernon Verona Sherrill City School District<br><b>Verona, NY</b>              | <b>355243</b>  | <b>2003</b> | Request for Review               |
| Washington State Department of Information<br>Services<br>Olympia, <b>WA</b>  | <b>229488</b>  | <b>2001</b> | Request for Review               |
| Washington State Department of Information<br>Services<br>Olympia, <b>WA</b>  | <b>406070</b>  | <b>2004</b> | Request for Review               |
| <del>Western</del> Christian High School<br>Hull, <b>IA</b>                   | <b>298244</b>  | <b>2002</b> | Request for Review               |
| Whitman-Hanson Regional School District<br>Whitman, <b>MA</b>                 | <b>429515</b>  | <b>2004</b> | Request for Review               |
| Windsor School District<br>Windsor, <b>VT</b>                                 | <b>337525</b>  | <b>2003</b> | Request for Review               |

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|---|--------|------|--------------------|
| <i>Wiscasset School Department</i><br>Wiscasset, ME | 398615 | 2004 | Request for Waiver |
| Yukon Flats School District<br>Fort Yukon, AK       | 435210 | 2004 | Request for Review |

FORM 486 NOTIFICATION LETTER  
FUNDING COMMITMENT REPORT  
(Funding Year 2004)

Service Provider Name: GCI Communication Corp  
Service Provider Identification Number: 143001199

Funding Request Number: 1183271  
Form 471 Application Number: 426990  
Form 470 Application Number: 768810000478721  
Name of 471 Applicant: JEMEZ MOUNTAIN SCHOOL DIST 53  
Address of 471 Applicant: HIGHWAY 96  
Applicant City: GALLINA  
Applicant State: NM  
Applicant Zip: 87017  
Entity Number:  
Name of Form 471 Contact Person: Adan Delgado  
Form 471 Preferred Mode of Contact: E-MAIL  
Form 471 Contact Information: adan@jmsk12.com  
Name of Form 486 Contact Person: ADAN DELGADO  
Address of Form 486 Contact: PO BOX 230  
City of Form 486 Contact: GALLINA  
State of Form 486 Contact: NM  
Zip Code of Form 486 Contact: 87017  
Fax of Form 486 Contact: 505-638-9155  
Telephone of Form 486 Contact: 505-638-5491 ext. 115  
E-mail Address of Form 486 Contact: ADAN@JMSK12.COM  
Funding Year: 07/01/2004 - ~~06/30/2005~~  
Contract Number: SAC-07-048  
Services Ordered: Internet Access  
Billing Account Number: N/A  
Service Start Date: ~~06/15/2005~~  
Service Start Date Change Explanation: 120-DAY 486 DEADLINE  
Contract Expiration Date: 06/30/2007  
Total Program Year Pre-discount Amount: \$110,006.24  
Applicant's Approved Discount Percentage: 88%  
Funding Commitment Decision: \$9,680.46\*



Form 471 RAL Line Item Report

FRN: 1183271  
Form 471 Application Number: 426990  
Form 470 Application Number: 788810000478721  
Name of Applicant: JENSEN MOUNTAIN SCHOOL DIST 53  
Entity Number of Applicant: 143237  
Address of Applicant: HIGHWAY 96, GALLINA, NM 87017  
Telephone Number of Applicant: (505) 638-5491  
Name of Contact Person: Adan Delgado  
Telephone Number of Contact Person: (505) 638-5491  
Category of Service: Internet Access  
Contract Number: SAC-07-048  
Billing Account Number: N/A  
Allowable Vendor Selection/Contract Date: 01/08/2004  
Contract Award Date: 02/03/2004  
Service Start Date: 07/01/2004  
Contract Expiration Date: 06/30/2007  
Pre-discount \$ Amount: \$110,006.24  
Discount Percentage Requested: 88%  
Funding Commitment Request: \$96,805.49

RECEIVED  
MAR 22 2004

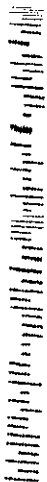
BY:.....

FUNDING COMMITMENT REPORT

Service Provider Name: GCI Communication Corp  
Service Provider Identification Number: 143001199

RECEIVED  
JUN 13 2005

Funding Request Number: 1183271  
Form 471 Application Number: 426990  
Form 470 Application Number: 758810000478721  
Name of 471 Applicant: JENSEN MOUNTAIN SCHOOL DIST 53  
Applicant Street Address: HIGHWAY 96  
Applicant City: GALLINA  
Applicant State: NM  
Applicant Zip: 87017  
Entity Number: 143237  
Name of Contact Person: Adan Delgado  
Preferred Mode of Contact: Email  
Contact Information: adan@jask12.com  
Funding Year: 2004 (07/01/2004 - 06/30/2005)  
Funding Status: Funded  
Contract Number: SAC-07-048  
Services Ordered: Internet Access  
Billing Account Number: N/A  
Allowable Vendor Selection/Contract Date: 01/08/2004  
Contract Award Date: 02/03/2004  
Service Start Date: 07/01/2004  
Contract Expiration Date: 06/30/2007  
Monthly Recurring Charges: \$9000.52  
Portion of Monthly Recurring Charges that is Ineligible: \$0.00  
Eligible Monthly Pre-Discount Amount for Recurring Charges: \$9000.52  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$108006.24  
Annual Non-Recurring Charges: \$2000.00  
Portion of Annual Non-Recurring Charges that is Ineligible: \$0.00  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$2000.00  
Total Program Year Pre-Discount Amount: \$110006.24  
Applicant's Approved Discount Percentage: 88  
Funding Commitment Decision: \$96805.49 - FNM approved as submitted  
Technology Plan Approval Status: Approved  
Wave Number: 020  
Applicant Letter Date: 06/07/2005



7004 1160 0007 5107 5442

Return Receipt Requested

Jemez Mountain Schools  
PO Box 230  
Gallina, NM 87017

Route  
**Tina**  
Delivery Point  
**TW-B204**  
04/24/07  
09:30:01  
OMD  
PO#  
Sgt JETEZ MOUNTAIN SCHO  
700416000751075442  
W1020054E9

FCC, Office of the Secretary  
445 12th Street SW  
Washington, DC 20554

RECEIVED & INSPECTED  
APR 24 2007  
FCC - MAIL ROOM